IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Writ Petition No.: 1136 of 2001.
Date of decision: 27.04.2007

O.P. Bijla …**Petitioner**

Versus

Union of India and Others …**Respondents.**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?[1]

For the Petitioner: **Mr.Subhash Sharma, Advocate.**

For the Respondents: **Mr.Ravinder Thakur, Central Government Counsel**

Dev Darshan Sud,J.

The petitioner has approached this Court under Article 226 of the Constitution of India with a prayer that he be granted disability pension.

The case pleaded by the petitioner is that he had joined the Indian Air Force as Air Craftsman on 8.9.1961. In 1990, during routine medical examination, it was found that the petitioner was suffering from "Essential hypertension" and Cardiac problem recorded as RBBB, as indicated in the medical record filed with the reply Annexure R-1. The case of the petitioner further is that his claim for disability pension has been rejected on grounds which are not tenable. He is entitled to such pension as it

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgement*?**

was attributable to army service/aggravated by his service in the Air Force. Reply has been filed by the respondents in which it has been contended that the disease from which the petitioner was suffering is neither attributable to nor is it aggravated by army service.

I have heard learned counsel for the parties and have gone through the record.

During the course of hearing, both the parties drew my attention to Annexure P-7 which is a letter dated 12th April, 2001, addressed to the petitioner by Mr.K.Gopal, Sqn.Ldr., O/c P&W Wg (DP) For ADIC AF Records. The letter states that the case of the petitioner was considered, but it was found that he was not eligible for disability pension as the disease from which the petitioner is suffering is not attributable to air force service. The letter further states that this fact was intimated to him by communication dated 30th December, 1999 with an advice to prefer an appeal against the decision of the Authority named therein. That letter is filed as Annexure P-8 with this writ petition. Learned counsel for the petitioner submitted that he was not in receipt of this letter otherwise he would have taken recourse to the remedy of appeal which was provided to him.

Without entering into the relative merits of the submissions made by the learned counsel appearing

for the parties, it is directed that the petitioner will prefer an appeal to the competent Authority as mentioned in Annexure P-8. Such appeal will be filed by him within a period of eight weeks from today alongwith all supportive material. The petitioner will be heard in person, if he so desires, and the appeal will be disposed of within a period of eight weeks from the receipt thereof. Needless to add that any order which is passed in the appeal will be a speaking order by giving reasons for the decision arrived at. In case the decision adverse to the petitioner is taken, he will be at liberty to approach this Court for redressal of his grievance.

The writ petition is disposed of in these terms. There shall be no order as to costs.

April 27, 2007 **(Dev Darshan Sud)**
(aks) **Judge.**